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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,440	11/28/2003	Jean-Paul Nadeau	117879	7378

25944 7590 12/17/2004

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EXAMINER

SLITERIS, JOSELYNN Y

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/722,440

Applicant(s)

NADEAU ET AL.

Examiner

Joselynn Y. Sliteris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Preliminary Amendment entered 11/28/03.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11282003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: on page 13 lines 1-5, "A ring 35 ... the piston 33" is unclear; on page 14 line 32, "forward" should be --rearward--; on page 15 line 21, "rearmost" should be --forwardmost--. Appropriate correction is required.
2. The abstract of the disclosure is objected to because of the presence of legal phraseology, i.e. all occurrence of "said" should be deleted. Correction is required. See MPEP § 608.01(b).

Claim Objections

3. Claims 1-13 are objected to because of the following informalities: in claim 1, numerous recitations of "the said bonnet" should be --the bonnet-- or --said bonnet--; in claim 1, numerous recitations of "the said lifting mechanism" should be --the lifting mechanism-- or --said lifting mechanism; in claims 7 and 9, "chamber (32)" should be --cylinder (30)--; in claim 7 line 2, "the said piston" should be --the piston-- or --said piston--; in claim 10 line 3, "the said link rod" should be --the link rod-- or said link rod--; ETC. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Regarding claims 1, 2, 5, 6, 9, and 11, examiner notes the use of "it" or "its" is improper and often unclear. Therefore, claims 1, 2, 5, 6, 9, and 11 are rendered indefinite.
7. Regarding claim 10, "the one" in line 4 is unclear. Therefore, claim 10 is rendered indefinite.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-8, 12, and 13, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Paye (U.S. Patent 6,439,330), as cited by applicant.
10. Regarding claims 1-8, 12, and 13, as best understood, Paye discloses safety device as in the present invention, the bonnet 14 comprising a structure 28 allowing it, in normal operation, to be opened or closed about an axis known as the rotation axis 20, the device 16 being situated under the bonnet 14 and comprising a mechanism for

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lifting 26, 38, 36 the bonnet 14, and actuator 36 actuated using a gas generator and a device for locking 30 the lifting mechanism 26, 38, 36, the lifting mechanism 26, 38, 36 comprising a link rod 26, the device 16 being characterized in that the actuator 36 is able to cause a translational movement of the lifting mechanism 38 in order to unlock it, followed by a rotation of the link rod 26 of the mechanism in order to deploy the lifting mechanism;

characterized in that it can be fitted onto the structure 28 used for the normal operation of the bonnet 14;

characterized in that the mechanism for lifting 26, 38 the bonnet 14 is articulated about the rotation axis 20 of the bonnet 14;

characterized in that the device for locking 30 the lifting mechanism 26, 38, 36 consists of two complementary shapes 38, 30 able to collaborate with one another to lock the lifting mechanism, one of these shapes being secured to the lifting mechanism 38 and the other 30 to a part that is fixed with respect to the vehicle;

characterized in that the link rod 26 is pivot-mounted at one of its ends 26a about an axis known as the pivot axis which is fixed with respect to the vehicle and is articulated at its other end 26b to the bonnet 14 about the rotation axis of the bonnet 14;

characterized in that the link rod 26 is slideably mounted at each of its end 26a, 26b with respect to, on the one hand, the rotation axis and, on the other hand, the pivot axis;

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characterized in that the actuator 36 comprises a piston secured to a rod 38, the piston being able to move in a chamber under the action of the gases generated by the gas generator;

characterized in that the rod 38 can be extracted from the actuator 36 in a horizontal direction, the lifting mechanism 26 converting the horizontal movement of the rod 38 into a vertical movement for lifting the bonnet 14;

characterized in that the link rod 26 is made from a deformable material;

characterized in that the actuator 36 is fixed to a deformable support 12 that is fixed with respect to the vehicle.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Paye (U.S. Patent 6,439,330), as cited by applicant, in view of Fohl (U.S. Patent 5,358,275).

13. Regarding claim 9, Paye discloses the claimed invention except for means for slowing the return movement of the rod in the chamber of the actuator. Fohl discloses that it is known in the art to provide means for slowing 18, 20 the return movement of the piston 14, 16 in the chamber of a tubular converter body 10. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

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provide the rod, piston, and actuator of Paye with the means for slowing the return movement of the piston in the chamber of the tubular converter body of Fohl, in order to slow the return movement of the rod in the chamber of the actuator.

Allowable Subject Matter

14. Claims 10 and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph and claim objection(s), set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joselynn Y. Sliteris whose telephone number is 703-308-8225. The examiner can normally be reached on Mon, Thurs & Fri 8:30 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.


For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).


Joselynn Y. Siteris 12/13/04
Patent Examiner
Art Unit 3616

JYS
12/13/04


PAUL N. DICKSON 12/13/04
SUPERVISORY PATENT EXAMINER
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